

REMARKS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

Claim 16 has been revised to include the limitations of now cancelled claims 13 and 14. The claim has also been revised to define the invention with additional clarity.

Claim 17 has been revised to make the language used more consistent with that of the disclosure at page 30, line 22. That the amendment has been made should not be construed as an indication that Applicants agree with the Examiner's position. On the contrary, the clear intent of the disclosure at page 30 is application of anti-CD44 antibodies to mucosa (vaginal, rectal or otherwise). Blood monocytes, tissue macrophage and dendritic cells are concentrated in the mucosa and it is through cells of this lineage (ie mononuclear phagocytes) that HIV is primarily transmitted.

Claim 19 has been revised to replace the term "ex vivo" with "in vitro" which, as the Examiner appreciates, is fully supported by the disclosure. Again, the revision is made merely to advance prosecution and not because Applicants agree with the Examiner's

position. "Ex vivo", like "in vitro", is used to distinguish from cells "in vivo".

The foregoing amendments are believed to meet fully the Examiner's objection under 35 USC 132 and rejection under 35 USC 112, first paragraph. Reconsideration is thus requested.

New claim 20 has been added. The new claim is fully supported by the Example at page 31 where reference is made to HIV-1_{BaL}. It will be clear from page 5 of the Rivadeneira et al manuscript submitted with the December 23, 1993 Amendment that HIV-1_{BaL} is a monocyteotropic strain. The claim is added in view of the Examiner's comments at the top of page 4 of the Action.

Claims 8, 9, 11 and 13-19 stand rejected under 35 USC 112, first paragraph. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revisions and for the reasons that follow.

The Examiner's comments on pages 3 and 4 of the Action are essentially a restatement from the last Action. Accordingly, incorporated herein by reference are the responsive remarks of May 17, 1995.

As to the comments at the top of page 5, of the Action, it is believed that the Examiner has misinterpreted Applicants'

prior comments regarding the §101 rejection. The point being made was that the outstanding rejection is under 35 USC 112, however, the remarks provided by the Examiner in support of the rejection are appropriate for a §101 rejection. Again, Applicants have taught how to make the invention and how to use it - that is all that is required under 35 USC 112.

The claims as now presented do not relate to "any" susceptible cell but to mononuclear phagocytes. Further claim 20 is limited to infection by moncytotropic strains of HIV. It is this strain type that is of particular significance in viral transmission to cells of the recited lineage. Mononuclear phagocytes are concentrated in the mucosa and thus are of prime importance in HIV transmission. The Examiner is again reminded that claim 18 is limited to topical administration.

No further limitation of the claims should be required and the Examiner is urged to withdraw the rejection.

Claim 11 stands rejected under 35 USC 112, first and second paragraphs. Withdrawal of the rejections is submitted to be in order in view of the fact that A1G3 has been publicly available since prior to April 1991. Evidence to that effect will follow.

Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By Mary J. Wilson
Mary J. Wilson
Reg. No. 32,955

MJW:tat

1100 North Glebe Road
8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100